

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

THOMAS HOLMES,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.
	:	5:08-CV-422(HL)
GAINNEY TRANSPORTATION	:	
SERVICES, INC., STATE NATIONAL	:	
INSURANCE CO. INC., AND	:	
GEORGE MISSOURI, JR.,	:	
	:	
Defendants.	:	
	:	
	:	

ORDER

Defendant Gainey Transportation Services, Inc. has filed a Notice of Automatic Stay Because of Bankruptcy (Doc. 5). In the Notice, Gainey asserts that on October 14, 2008, it filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code. Thus, Gainey contends that, pursuant to 11 U.S.C. § 362(a)(1), “all matters” in this case are automatically stayed. Gainey is incorrect.

Under § 362(a)(1), the filing of a bankruptcy petition automatically stays all judicial proceedings against the debtor. 11 U.S.C. § 362(a)(1). This statute, however, does not automatically stay judicial proceedings against nonbankrupt third parties or codefendants. E.g., In re S.I. Acquisition, Inc., 817 F.2d 1142, 1147 (5th Cir. 1987); Teachers Ins. and Annuity Ass'n of Am v. Butler, 803 F.2d 61, 65 (2d Cir.

1986); Willford v. Armstrong World Indus., Inc., 715 F.2d 124, 126-27 (4th Cir. 1983). Only in “unusual circumstances” do courts extend the automatic stay to nondebtor codefendants. McCartney v. Integra Nat. Bank North, 106 F.3d 506, 510 (3d Cir. 1997); A.H. Robins Co. v. Piccinin, 788 F.2d 994, 999 (4th Cir. 1986).

In this case, there are three Defendants: Gainey; State National Insurance Co.; and George Missouri, Jr. Gainey is the only Defendant that has filed a petition for bankruptcy. As a result, the proceedings against him are automatically stayed; however, they are not automatically stayed against the two nonbankrupt Codefendants. As Gainey has not demonstrated “unusual circumstances” to justify extending the stay to the other Defendants, the Court declines to stay the entire case. The case will proceed against State National Insurance Co. and George Missouri, Jr.

SO ORDERED, this the 24th day of December, 2008

s/Hugh Lawson
HUGH LAWSON, Judge

dhc